

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JOANN ORTIZ,

Plaintiff,

v.

Case No. 1:16-cv-739

SAFECO INSURANCE COMPANY OF AMERICA,

Defendant.

NOTICE OF REMOVAL

Safeco Insurance Company of America, by and through its counsel of record, RAY, MCCHRISTIAN & JEANS, P.C. (Shannon A. Parden and Shona L. Zimmerman), hereby files this Notice of Removal in the above-captioned matter to the United States District Court from the State of New Mexico, First Judicial District Court, County of Santa Fe, pursuant to 28 U.S.C. §§ 1441, 1446. Safeco states as follows:

1. Plaintiff Joann Ortiz (“Plaintiff”) commenced this action in the First Judicial District Court of the State of New Mexico on May 25, 2016. Safeco was served with the Summons and Complaint on June 1, 2016.

2. This is a civil action, of which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. This cause of action may be removed to this Court pursuant to 28 U.S.C. § 1441, in that it is a civil action wherein the matter in controversy exceeds the sum or value of seventy five thousand dollars (\$75,000.00), exclusive of interest or costs, and the Plaintiff and Defendant are citizens of different states.

3. The parties are diverse. Plaintiff is a resident of Santa Fe County, New Mexico. Safeco is a foreign corporation incorporated under the laws of the State of New Hampshire, with

its principal place of business located in Boston, Massachusetts. Safeco is authorized to do business in the State of New Mexico.

4. In her Complaint for UIM Benefits, Violations of the Unfair Insurance Practices Act, Insurance Bad Faith, and Punitive Damages (“Complaint”), Plaintiff alleges that on or about January 7, 2013 she was injured in a motor vehicle accident.

5. Plaintiff alleges that at the time of the accident, there was in effect a policy of insurance that Safeco had issued to Thomas L. Ortiz, Policy Number Y7847177 (“Policy”). Plaintiff further alleges that the Policy has uninsured motorist (“UM”) benefits.

6. Plaintiff seeks UM benefits under the Policy. Plaintiff seeks money damages for her medical bills, pain and suffering, nature, duration, and extent of injuries, and hedonic damages. In addition to compensatory damages, Plaintiff seeks punitive damages as a result of the actions of the UM driver and from Safeco, and attorney fees. Safeco submits that Plaintiff, who turned in front of the oncoming UM vehicle, was comparatively at fault, and it disputes the amount of Plaintiff’s alleged damages.

7. In her Complaint, Plaintiff alleges claims for UM benefits, violations of the New Mexico Unfair Insurance Practices Act, and Insurance Bad Faith. On or about May 25, 2016, the date Plaintiff filed her Complaint, Plaintiff verbally demanded \$80,000.00 from Safeco to settle her claim. *See* Declaration of Michael A. Kreutzer, Senior Casualty Specialist III, dated June 27, 2016, attached hereto as **Exhibit A**. Based upon the facts alleged in the Complaint and Plaintiff’s demand, Plaintiff seeks damages in excess of the jurisdictional requirement contained in 28 U.S.C. § 1332.

8. Safeco attaches to this Notice, as **Exhibit B**, a copy of all pleadings served upon it in this cause of action and all other documents filed in the New Mexico State Court.

9. The Civil Cover Sheet is attached hereto as **Exhibit C**.

10. Safeco will give written notice of the filing of this Notice to the adverse party and the State Court as required by 28 U.S.C. § 1446(d).

WHEREFORE, for the foregoing reasons, Safeco respectfully requests that this action proceed in this Court as an action properly removed to it.

DATED: June 28, 2016.

Respectfully submitted,

RAY, MCCHRISTIAN & JEANS, P.C.

By: /s/ Shannon A. Parden

Shannon A. Parden
Shona L. Zimmerman
6000 Uptown Blvd. NE, Suite 307
Albuquerque, New Mexico 87110
Tel. (505) 855-6000
Fax (505) 212-0140
sparden@rmjfirm.com
szimmerman@rmjfirm.com
*Attorneys for Safeco Insurance
Company of America*

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was served by email and through the Court's CM/ECF system this 28th day of June, 2016 to all counsel of record as follows:

Brian G. Grayson
Grayson Law Office, LLC
4700 Lincoln Rd. Suite 107
Albuquerque, NM 87109
(505) 273-8570
(505) 214-5007 (fax)
Attorney for Plaintiff

Mary Anne D'Arcangelis
620 Roma Ave NW
Albuquerque, NM 87102
(505) 243-1223
(505) 246-2668 (fax)
Attorney for Plaintiff

/s/ Shannon A. Parden
Shannon A. Parden